

AMENDMENTS TO LB 713

1 1. Strike the original sections and insert the following
2 new sections:

3 "Section 1. Every health care professional as defined in
4 section 44-5418 or any person in charge of any emergency room in
5 this state:

6 (1) Shall utilize a standardized sexual assault evidence
7 collection kit approved by the Attorney General; and

8 (2) Shall collect forensic evidence with the consent of
9 the sexual assault victim without separate authorization by a law
10 enforcement agency.

11 Sec. 2. Section 28-323, Revised Statutes Supplement,
12 2004, is amended to read:

13 28-323. (1) A person commits the offense of domestic
14 assault in the third degree if he or she:

15 (a) Intentionally and knowingly causes bodily injury to
16 his or her intimate partner; or

17 (b) Places, by physical or verbal menace, his or her
18 intimate partner in fear of imminent bodily injury.

19 (2) A person commits the offense of domestic assault in
20 the second degree if he or she intentionally and knowingly causes
21 bodily injury to his or her intimate partner with a dangerous
22 instrument.

23 (3) A person commits the offense of domestic assault in
24 the first degree if he or she intentionally and knowingly causes

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1 serious bodily injury to his or her intimate partner.

2 (4) Violation of subsection (1) of this section is a
3 Class I misdemeanor, except that for any second or subsequent
4 violation of such subsection within twelve years after the date of
5 the current conviction, any person so offending against the same
6 intimate partner is guilty of a Class IV felony.

7 (5) Violation of subsection (2) of this section is a
8 Class IIIA felony, except that for any second or subsequent
9 violation of such subsection within twelve years after the date of
10 the current conviction, any person so offending against the same
11 intimate partner is guilty of a Class III felony.

12 (6) Violation of subsection (3) of this section is a
13 Class III felony, except that for any second or subsequent
14 violation under such subsection within twelve years after the date
15 of the current conviction, any person so offending against the same
16 intimate partner is guilty of a Class II felony.

17 (7) For purposes of this section, (a) intimate partner
18 means a spouse; a former spouse; persons who have a child in common
19 whether or not they have been married or lived together at any
20 time; and persons who are or were involved in a dating
21 relationship, and (b) - ~~For purposes of this subsection,~~ dating
22 relationship means frequent, intimate associations primarily
23 characterized by the expectation of affectional or sexual
24 involvement, but does not include a casual relationship or an
25 ordinary association between persons in a business or social
26 context.

27 (8) When a court dismisses a charge filed under this

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1 section or a prosecutor moves to dismiss a charge filed under this
2 section, the reasons for the dismissal shall be recorded in the
3 court record.

4 Sec. 3. Section 29-110, Revised Statutes Supplement,
5 2004, is amended to read:

6 29-110. (1) Except as otherwise provided by law, no
7 person shall be prosecuted for any felony unless the indictment is
8 found by a grand jury within three years next after the offense has
9 been done or committed or unless a complaint for the same is filed
10 before the magistrate within three years next after the offense has
11 been done or committed and a warrant for the arrest of the
12 defendant has been issued.

13 (2) Except as otherwise provided by law, no person shall
14 be prosecuted, tried, or punished for any misdemeanor or other
15 indictable offense below the grade of felony or for any fine or
16 forfeiture under any penal statute unless the suit, information, or
17 indictment for ~~the same~~ such offense is instituted or found within
18 one year and six months from the time of committing the offense or
19 incurring the fine or forfeiture or within one year for any offense
20 the punishment of which is restricted by a fine not exceeding one
21 hundred dollars and to imprisonment not exceeding three months.

22 (3) Except as otherwise provided by law, no person shall
23 be prosecuted for ~~sexual assault in the first degree, second~~
24 ~~degree, or third degree under section 28-319 or 28-320,~~ kidnapping
25 under section 28-313, false imprisonment under section 28-314 or
26 28-315, child abuse under section 28-707, pandering under section
27 28-802, debauching a minor under section 28-805, or an offense

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1 under section 28-813, 28-813.01, or 28-1463.03 when the victim is
2 under sixteen years of age at the time of the offense (a) unless
3 the indictment for ~~the same~~ such offense is found by a grand jury
4 within seven years next after the offense has been committed or
5 within seven years next after the victim's sixteenth birthday,
6 whichever is later, or (b) unless a complaint for ~~the same~~ such
7 offense is filed before the magistrate within seven years next
8 after the offense has been committed or within seven years next
9 after the victim's sixteenth birthday, whichever is later, and a
10 warrant for the arrest of the defendant has been issued.

11 (4) No person shall be prosecuted for a violation of the
12 Securities Act of Nebraska under section 8-1117 unless the
13 indictment for ~~the same~~ such offense is found by a grand jury
14 within five years next after the offense has been done or committed
15 or unless a complaint for ~~the same~~ such offense is filed before the
16 magistrate within five years next after the offense has been done
17 or committed and a warrant for the arrest of the defendant has been
18 issued.

19 (5) There shall not be any time limitations for
20 prosecution or punishment for treason, murder, arson, forgery,
21 sexual assault in the first or second degree under section 28-319
22 or 28-320, or sexual assault of a child under section 28-320.01;
23 nor shall there be any time limitations for prosecution or
24 punishment for sexual assault in the third degree under section
25 28-320 ~~or any of the following offenses~~ when the victim is under
26 sixteen years of age at the time of the offense. ~~+ Sexual assault~~
27 ~~in the first degree, second degree, or third degree under section~~

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1 ~~28-319 or 28-320.~~

2 (6) The time limitations prescribed in this section shall
3 include all inchoate offenses pursuant to the Nebraska Criminal
4 Code and compounding a felony pursuant to section 28-301.

5 (7) The time limitations prescribed in this section shall
6 not extend to any person fleeing from justice.

7 (8) When any suit, information, or indictment for any
8 crime or misdemeanor is limited by any statute to be brought or
9 exhibited within any other time than is limited by this section,
10 then the suit, information, or indictment shall be brought or
11 exhibited within the time limited by such statute.

12 (9) If any suit, information, or indictment is quashed or
13 the proceedings set aside or reversed on writ of error, the time
14 during the pendency of such suit, information, or indictment so
15 quashed, set aside, or reversed shall not be reckoned within this
16 statute so as to bar any new suit, information, or indictment for
17 the same offense.

18 (10) The changes made to this section by Laws 2004, LB
19 943, shall apply to offenses committed prior to April 16, 2004, for
20 which the statute of limitations has not expired as of such date
21 and to offenses committed on or after such date.

22 Sec. 4. Section 29-2264, Revised Statutes Supplement,
23 2004, is amended to read:

24 29-2264. (1) Whenever any person is placed on probation
25 by a court and satisfactorily completes the conditions of his or
26 her probation for the entire period or is discharged from probation
27 prior to the termination of the period of probation, the sentencing

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1 court shall issue an order releasing the offender from probation.
2 Such order in all felony cases shall provide notice that the
3 person's voting rights are not restored upon completion of
4 probation. The order shall include information on restoring such
5 civil rights through the pardon process, including application to
6 and hearing by the Board of Pardons.

7 (2) Whenever any person is convicted of a misdemeanor or
8 felony and is placed on probation by the court or is sentenced to a
9 fine only, he or she may, after satisfactory fulfillment of the
10 conditions of probation for the entire period or after discharge
11 from probation prior to the termination of the period of probation
12 and after payment of any fine, petition the sentencing court to set
13 aside the conviction.

14 (3) In determining whether to set aside the conviction,
15 the court shall consider:

16 (a) The behavior of the offender after sentencing;

17 (b) The likelihood that the offender will not engage in
18 further criminal activity; and

19 (c) Any other information the court considers relevant.

20 (4) The court may grant the offender's petition and issue
21 an order setting aside the conviction when in the opinion of the
22 court the order will be in the best interest of the offender and
23 consistent with the public welfare. The order shall:

24 (a) Nullify the conviction; and

25 (b) Remove all civil disabilities and disqualifications
26 imposed as a result of the conviction.

27 (5) The setting aside of a conviction in accordance with

1 the Nebraska Probation Administration Act shall not:

2 (a) Require the reinstatement of any office, employment,
3 or position which was previously held and lost or forfeited as a
4 result of the conviction;

5 (b) Preclude proof of a plea of guilty whenever such plea
6 is relevant to the determination of an issue involving the rights
7 or liabilities of someone other than the offender;

8 (c) Preclude proof of the conviction as evidence of the
9 commission of the misdemeanor or felony whenever the fact of its
10 commission is relevant for the purpose of impeaching the offender
11 as a witness, except that the order setting aside the conviction
12 may be introduced in evidence;

13 (d) Preclude use of the conviction for the purpose of
14 determining sentence on any subsequent conviction of a criminal
15 offense;

16 (e) Preclude the proof of the conviction as evidence of
17 the commission of the misdemeanor or felony in the event an
18 offender is charged with a subsequent offense and the penalty
19 provided by law is increased if the prior conviction is proved;

20 (f) Preclude the proof of the conviction to determine
21 whether an offender is eligible to have a subsequent conviction set
22 aside in accordance with the Nebraska Probation Administration Act;
23 ~~or~~

24 (g) Preclude use of the conviction as evidence of
25 commission of the misdemeanor or felony for purposes of determining
26 whether an application filed or a license issued under sections
27 71-1901 to ~~71-1905~~ 71-1906.01 or the Child Care Licensing Act or a

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1 certificate issued under sections 79-806 to 79-815 should be
2 denied, suspended, or revoked;

3 (h) Preclude proof of the conviction as evidence whenever
4 the fact of the conviction is relevant to a determination of risk
5 of recidivism under section 29-4013; or

6 (i) Relieve a person who is convicted of an offense for
7 which registration is required under the Sex Offender Registration
8 Act of the duty to register and to comply with the terms of the
9 act.

10 (6) Except as otherwise provided for the notice in
11 subsection (1) of this section, ~~this section~~ changes made to this
12 section by this legislative bill shall be retroactive in
13 application and shall apply to all persons, otherwise eligible in
14 accordance with the provisions of this section, whether convicted
15 prior to, on, or subsequent to ~~June 11, 1993~~ the effective date of
16 this act.

17 Sec. 5. Section 29-4003, Revised Statutes Supplement,
18 2004, is amended to read:

19 29-4003. (1) Except as provided in subsection (2) of
20 this section, the Sex Offender Registration Act shall apply to any
21 person who on or after January 1, 1997:

22 (a) Pleads guilty to or is found guilty of:

23 (i) Kidnapping of a minor pursuant to section 28-313,
24 except when the person is the parent of the minor and was not
25 convicted of any other offense in this section;

26 (ii) False imprisonment of a minor pursuant to section
27 28-314 or 28-315;

1 (iii) Sexual assault pursuant to section 28-319 or
2 28-320;
3 (iv) Sexual assault of a child pursuant to section
4 28-320.01;
5 (v) Sexual assault of a vulnerable adult pursuant to
6 subdivision (1)(c) of section 28-386;
7 (vi) Incest of a minor pursuant to section 28-703;
8 (vii) Pandering of a minor pursuant to section 28-802;
9 (viii) Visual depiction of sexually explicit conduct of a
10 child pursuant to section 28-1463.03 or 28-1463.05;
11 (ix) Knowingly possessing any visual depiction of
12 sexually explicit conduct which has a child as one of its
13 participants or portrayed observers pursuant to section 28-813.01;
14 (x) Criminal child enticement pursuant to section 28-311;
15 (xi) Child enticement by means of a computer pursuant to
16 section 28-320.02; or
17 (xii) Attempt, solicitation, or conspiracy to commit an
18 offense listed in subdivisions (1)(a)(i) through (1)(a)(xi) of this
19 section;
20 (b) Enters the state and has pleaded guilty to or has
21 been found guilty of any offense that is substantially equivalent
22 to a registrable offense under subdivision (1)(a) of this section
23 by any state, territory, commonwealth, or other jurisdiction of the
24 United States, by the United States Government, or by ~~court martial~~
25 court-martial or other military tribunal, notwithstanding a
26 procedure comparable in effect to that described under section
27 29-2264 or any other procedure to nullify a conviction other than

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1 by pardon; or

2 (c) Is incarcerated in a jail, a penal or correctional
3 facility, or any other public or private institution or is under
4 probation or parole as a result of pleading guilty to or being
5 found guilty of a registrable offense under subdivision (1)(a) or
6 (b) of this section prior to January 1, 1997.

7 (2) In the case of a person convicted of a violation of
8 section 28-311, 28-313, 28-314, or 28-315, the convicted person
9 shall be subject to the Sex Offender Registration Act, unless the
10 sentencing court determines at the time of sentencing, in light of
11 all the facts, that the convicted person is not subject to the act.
12 The sentencing court shall make such determination part of the
13 sentencing order.

14 (3) A person appealing a conviction of a registrable
15 offense under this section shall be required to comply with the act
16 during the appeals process.

17 Sec. 6. Section 29-4004, Revised Statutes Supplement,
18 2004, is amended to read:

19 29-4004. (1) Any person subject to the Sex Offender
20 Registration Act shall register with the sheriff of the county in
21 which the person resides or is temporarily domiciled within five
22 working days of becoming subject to the act.

23 (2) Any person required to register under the act shall
24 inform the sheriff of the county in which he or she resides, in
25 writing, if he or she has a new address within such county within
26 five working days after the address change. The sheriff shall
27 forward such information to the sex offender registration and

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1 community notification division of the Nebraska State Patrol within
2 five working days after receipt of the new address.

3 (3) Any person required to register under the act shall
4 inform the sheriff of the county in which he or she resides, in
5 writing, if he or she has a new address in a different county in
6 this state within five working days after the address change. The
7 sheriff shall forward the new address to the sex offender
8 registration and community notification division of the Nebraska
9 State Patrol within five working days after receipt of the new
10 address. The division shall notify the sheriff of the county to
11 which the person is relocating of the new address. The person
12 shall report to the county sheriff of his or her new county of
13 residence and register with such county sheriff.

14 (4) Any person required to register under the act shall
15 inform the sheriff of the county in which he or she resides, in
16 writing, if he or she moves to a new out-of-state address. The
17 sheriff shall forward the new out-of-state address to the sex
18 offender registration and notification division of the Nebraska
19 State Patrol within five working days after receipt of the new
20 out-of-state address. The division shall forward the new
21 out-of-state address to the other state's central repository for
22 sex offender registration.

23 (5) Any person required to register under the act who is
24 residing in another state or is temporarily domiciled in another
25 state, and is employed, carries on a vocation, or attends school in
26 this state shall report and register with the sheriff of the county
27 in which he or she is employed, carries on a vocation, or attends

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1 school in this state within five working days after becoming
2 employed, carrying on a vocation, or attending school. The sheriff
3 shall forward this information to the sex offender registration and
4 community notification division of the Nebraska State Patrol within
5 five working days after receipt of such information. For purposes
6 of this subsection:

7 (a) Attends school means enrollment in any educational
8 institution in this state on a full-time or part-time basis;

9 (b) Is employed or carries on a vocation means any
10 full-time or part-time employment, with or without compensation,
11 which lasts for a duration of more than fourteen days or for an
12 aggregate period exceeding thirty days in a calendar year; and

13 (c) Temporarily domiciled means a place at which the
14 person actually lives or stays on a temporary basis even though he
15 or she may plan to return to his or her permanent address or to
16 another temporary address. For purposes of this section, a
17 temporary domicile means any place at which the person actually
18 lives or stays for a period of at least five working days.

19 (6) Any person incarcerated for a registrable offense
20 under section 29-4003 in a jail, penal or correctional facility, or
21 other public or private institution who is not already registered
22 shall be registered by the jail, penal or correctional facility, or
23 public or private institution prior to his or her release. The
24 person shall be informed and information shall be obtained as
25 required in section 29-4006.

26 (7) Any person required to register under the act shall
27 inform the sheriff of the county in which he or she resides, in

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1 writing, of each postsecondary educational institution at which he
2 or she is employed, carries on a vocation, or attends school,
3 within five working days after such employment or attendance. The
4 person shall also notify the sheriff of any change in such
5 employment or attendance status at the postsecondary educational
6 institution. The sheriff shall forward the information regarding
7 such employment or attendance to the sex offender registration and
8 community notification division of the Nebraska State Patrol within
9 five working days after receipt of the information.

10 (8) Any person required to register or who is registered
11 under the act, but is incarcerated for more than five days, whether
12 or not in his or her own county of residence or temporary domicile,
13 shall ~~notify~~ inform the sheriff of the county in which such person
14 would reside or would be temporarily domiciled if he or she was not
15 incarcerated, within five working days after incarceration, of his
16 or her incarceration and his or her expected release date, if any
17 such date is available. The sheriff shall forward the information
18 regarding incarceration to the sex offender registration and
19 community notification division of the Nebraska State Patrol within
20 five working days after receipt of the information.

21 (9) Each sheriff shall forward all written information,
22 photographs, and fingerprints obtained pursuant to the act to the
23 sex offender registration and community notification division of
24 the Nebraska State Patrol within five working days. The
25 information shall be forwarded on forms furnished by the division.
26 The division shall maintain a central registry of sex offenders
27 required to register under the act.

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1 Sec. 7. Section 29-4009, Revised Statutes Supplement,
2 2004, is amended to read:

3 29-4009. Information obtained under the Sex Offender
4 Registration Act shall be confidential, except that:

5 (1) Information shall be disclosed to law enforcement
6 agencies for law enforcement purposes;

7 (2) Information may be disclosed to governmental agencies
8 conducting confidential background checks for employment or
9 volunteer purposes;

10 (3) Information concerning the address or whereabouts of
11 the person required to register may be disclosed to the victim or
12 victims of such person; and

13 (4) The Nebraska State Patrol, any law enforcement
14 agency, and any probation or parole officer may release relevant
15 information that is necessary to protect the public concerning a
16 specific person required to register, except that the identity of a
17 victim of an offense that requires registration shall not be
18 released. Release of such information shall conform with the rules
19 and regulations adopted and promulgated by the Nebraska State
20 Patrol pursuant to section 29-4013.

21 Sec. 8. Section 29-4013, Revised Statutes Supplement,
22 2004, is amended to read:

23 29-4013. (1) The Nebraska State Patrol shall adopt and
24 promulgate rules and regulations to carry out the registration
25 provisions of the Sex Offender Registration Act.

26 (2) (a) The Nebraska State Patrol shall adopt and
27 promulgate rules and regulations for the release of information ~~to~~

1 ~~the community~~ pursuant to ~~subdivision~~ subdivisions (2) and (4) of
2 section 29-4009.

3 (b) The rules and regulations adopted by the Nebraska
4 State Patrol shall identify and incorporate factors relevant to the
5 sex offender's risk of recidivism. Factors relevant to the risk of
6 recidivism include, but are not limited to:

7 (i) Conditions of release that minimize the risk of
8 recidivism, including probation, parole, counseling, therapy, or
9 treatment;

10 (ii) Physical conditions that minimize the risk of
11 recidivism, including advanced age or debilitating illness; and

12 (iii) Any criminal history of the sex offender indicative
13 of a high risk of recidivism, including:

14 (A) Whether the conduct of the sex offender was found to
15 be characterized by repetitive and compulsive behavior;

16 (B) Whether the sex offender committed the sexual offense
17 against a child;

18 (C) Whether the sexual offense involved the use of a
19 weapon, violence, or infliction of serious bodily injury;

20 (D) The number, date, and nature of prior offenses;

21 (E) Whether psychological or psychiatric profiles
22 indicate a risk of recidivism;

23 (F) The sex offender's response to treatment;

24 (G) Any recent threats by the sex offender against a
25 person or expressions of intent to commit additional crimes; and

26 (H) Behavior of the sex offender while confined.

27 (c) The procedures for release of information established

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1 by the Nebraska State Patrol shall provide for three levels of
2 notification by the law enforcement agency in whose jurisdiction
3 the sex offender is to be released depending on the risk of
4 recidivism by the sex offender as follows:

5 (i) If the risk of recidivism is low, other law
6 enforcement agencies likely to encounter the sex offender shall be
7 notified;

8 (ii) If the risk of recidivism is moderate, in addition
9 to the notice required by subdivision (i) of this subdivision,
10 schools, daycare centers, health care facilities providing services
11 to children or vulnerable adults, and religious and youth
12 organizations shall be notified; and

13 (iii) If the risk of recidivism is high, in addition to
14 the notice required by subdivisions (i) and (ii) of this
15 subdivision, the public shall be notified through means designed to
16 reach members of the public likely to encounter the sex offender,
17 which are limited to direct contact, news releases, or a method
18 utilizing a telephone system. If any means of notification
19 proposes a fee for usage, then nonprofit organizations holding a
20 certificate of exemption under section 501(c) of the Internal
21 Revenue Code shall not be charged.

22 (d) The Nebraska State Patrol shall establish procedures
23 for the evaluation of the risk of recidivism and implementation of
24 community notification that promote the uniform application of the
25 notification rules and regulations required by this section.

26 (e) The Nebraska State Patrol or a designee shall assign
27 a notification level, based upon the risk of recidivism, to all

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1 persons required to register under the act.

2 (f) Personnel and mental health professionals for the sex
3 offender registration and community notification division of the
4 Nebraska State Patrol shall have access to all documents that are
5 generated by any governmental agency that may have bearing on sex
6 offender risk assessment and community notification pursuant to
7 this section. This may include, but is not limited to, law
8 enforcement reports, presentence reports, criminal histories, or
9 birth certificates. The division shall not be charged for access
10 to documents under this subdivision. Access to such documents will
11 ensure that a fair risk assessment is completed using the totality
12 of all information available. For purposes of this subdivision,
13 mental health professional means (i) a practicing physician
14 licensed to practice medicine in this state under the provisions of
15 section 71-102, (ii) a practicing psychologist licensed to engage
16 in the practice of psychology in this state as provided in section
17 71-1,206.14, or (iii) a practicing mental health professional
18 licensed or certified in this state as provided in section
19 71-1,333.

20 (3) Nothing in subsection (2) of this section shall be
21 construed to prevent law enforcement officers from providing
22 community notification concerning any person who poses a danger
23 under circumstances that are not provided for in the act.

24 Sec. 9. Section 42-901, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 42-901. Sections 42-901 to 42-931 and sections 13 and 17
27 of this act shall be known and may be cited as the Protection from

1 Domestic Abuse Act.

2 Sec. 10. Section 42-903, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 42-903. For purposes of the Protection from Domestic
5 Abuse Act, unless the context otherwise requires:

6 (1) Abuse means the occurrence of one or more of the
7 following acts between family or household members:

8 (a) Attempting to cause or intentionally and knowingly
9 causing bodily injury with or without a dangerous instrument;

10 (b) Placing, by physical menace, another person in fear
11 of imminent bodily injury; or

12 (c) Engaging in sexual contact or sexual penetration
13 without consent as defined in section 28-318;

14 (2) Department means the Department of Health and Human
15 Services;

16 (3) Family or household members includes spouses or
17 former spouses, children, persons who are presently residing
18 together or who have resided together in the past, persons who have
19 a child in common whether or not they have been married or have
20 lived together at any time, other persons related by consanguinity
21 or affinity, and persons who are presently involved in a dating
22 relationship with each other or who have been involved in a dating
23 relationship with each other. For purposes of this subdivision,
24 dating relationship means frequent, intimate associations primarily
25 characterized by the expectation of affectional or sexual
26 involvement, but does not include a casual relationship or an
27 ordinary association between persons in a business or social

1 context; and

2 (4) Law enforcement agency means the police department or
3 town marshal in incorporated municipalities, the office of the
4 sheriff in unincorporated areas, and the Nebraska State Patrol.

5 Sec. 11. Section 42-907, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 42-907. The department shall provide emergency services
8 which shall consist of up to seventy-two hours of crisis
9 intervention services including:

10 (1) Constant access and intake to services;

11 (2) Immediate transportation from a victim's home or
12 other location to a hospital or a place of safety;

13 (3) Immediate medical services or first aid;

14 (4) Emergency legal counseling and referral;

15 (5) Crisis counseling to provide support and assurance of
16 safety;

17 (6) Emergency financial aid; and

18 (7) Safe living environments that will provide a
19 supportive, nonthreatening shelter to victims, ~~their families,~~ and
20 their family or household members.

21 Sec. 12. Section 42-924, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 42-924. (1) Any victim of domestic abuse may file a
24 petition and affidavit for a protection order as provided in
25 subsection ~~(2)~~ (3) of this section. Upon the filing of such a
26 petition and affidavit in support thereof, the ~~judge or~~ court may
27 issue a protection order without bond granting the following

1 relief:

2 (a) ~~Enjoining~~ Prohibiting the respondent from imposing
3 any restraint upon the petitioner or upon the liberty of the
4 petitioner;

5 (b) ~~Enjoining~~ Prohibiting the respondent from
6 threatening, assaulting, molesting, attacking, or otherwise
7 disturbing the peace of the petitioner;

8 (c) ~~Enjoining~~ Prohibiting the respondent from
9 telephoning, contacting, or otherwise communicating with the
10 petitioner;

11 (d) Removing and excluding the respondent from the
12 residence of the petitioner, regardless of the title or ownership
13 of the residence;

14 (e) Ordering the respondent to stay a specified distance,
15 as ordered by the court, away from the petitioner and any place
16 specified by the court;

17 (f) Awarding the petitioner temporary custody of any
18 minor children not to exceed ~~ninety~~ one hundred twenty days; ~~or~~

19 (g) Ordering such other relief deemed necessary to
20 provide for the safety and welfare of the petitioner ~~and any~~
21 ~~designated family or household member~~ or the petitioner's children;
22 or

23 (h) Awarding temporary possession to the petitioner of
24 any animal or household pet.

25 (2) If a protection order issued under this section
26 prohibits the respondent from entering a residence or other place
27 specified by the court or prohibits the respondent from coming

1 within a court-specified distance of the petitioner, the order
2 shall state clearly that the order cannot be waived or nullified by
3 an invitation to the respondent from the petitioner or other family
4 or household member. The petitioner shall not be charged with
5 aiding and abetting a violation of the petitioner's protection
6 order unless the court finds the petitioner invited the respondent
7 to the residence or other specified place that the respondent was
8 prohibited from entering with the intent to have the respondent
9 arrested for violation of a protection order.

10 (3) Petitions for protection orders shall be filed with
11 the clerk of the district court, and the proceeding may be heard by
12 the county court or the district court as provided in section
13 25-2740. The court shall not require the petitioner to appear in
14 person at the time of filing a petition under subsection (1) of
15 this section or to receive ex parte relief. Petitions and
16 accompanying affidavits may be sent via facsimile or other
17 electronic means approved by the Supreme Court.

18 ~~(3)~~ (4) A petition filed pursuant to subsection (1) of
19 this section may not be withdrawn except upon order of the court.
20 An order issued pursuant to subsection (1) of this section shall
21 specify that it is effective for a period of one year and, if the
22 order grants temporary custody, the number of days of custody
23 granted to the petitioner. ~~unless otherwise modified by the court.~~
24 Any person other than the petitioner who knowingly violates an
25 order issued pursuant to subsection (1) of this section or section
26 42-931 after service shall be guilty of a Class II misdemeanor,
27 except that (a) any person convicted of violating such order who

1 has a prior conviction for violating a protection order shall be
2 guilty of a Class I misdemeanor and (b) any person convicted of
3 violating such order who has a prior conviction for violating the
4 same protection order or a protection order granted to the same
5 petitioner shall be guilty of a Class IV felony.

6 (5) The court shall put in writing the specific grounds
7 for denial after hearing on a petition for a protection order under
8 section 42-924.

9 (6) An appeal of a request for relief under the
10 Protection from Domestic Abuse Act shall be made pursuant to
11 section 25-1912.

12 (7) ~~(4)~~ If there is any conflict between sections 42-924
13 to 42-926 and section 13 of this act and any other provision of
14 law, sections 42-924 to 42-926 and section 13 of this act shall
15 govern.

16 Sec. 13. (1) A court may issue an ex parte emergency
17 protection order to prevent abuse when a peace officer, upon the
18 consent of a victim, asserts reasonable grounds to believe:

19 (a) That the victim is in fear of danger of abuse based
20 on the victim's allegation of a recent incident of abuse by the
21 person against whom the order is sought; or

22 (b) That a minor child is in immediate and present danger
23 of abuse based on an allegation of a recent incident of abuse.

24 (2) An ex parte emergency protection order may include,
25 as appropriate:

26 (a) A protection order; and

27 (b) An order determining the immediate and temporary care

1 and control of any minor child of the endangered person.

2 (3) An ex parte emergency protection order shall include:

3 (a) A statement of the grounds asserted for the order;

4 (b) The date and time the order expires;

5 (c) The address of the district court for the judicial
6 district in which the endangered person or minor child resides; and

7 (d) The following statements, printed in both English and
8 Spanish:

9 (i) To the Petitioner: This order will last only until
10 the date and time noted above. If you wish to seek continuing
11 protection, you must apply for an order from the court at the
12 address noted above. You may seek the advice of an attorney as to
13 any matter connected with your application for any future court
14 orders. The attorney should be consulted promptly so that the
15 attorney may assist you in making your application; and

16 (ii) To the Respondent: This order will last until the
17 date and time noted above. The petitioner may, however, obtain a
18 more permanent protection order from the court. You may seek the
19 advice of an attorney as to any matter connected with the
20 application. The attorney should be consulted promptly so that the
21 attorney may assist you in responding to this order.

22 (4) The fact that the petitioner has left the household
23 to avoid abuse does not affect the availability of an ex parte
24 emergency protection order.

25 (5) An ex parte emergency protection order shall be
26 issued without prejudice to any person.

27 (6) An ex parte emergency protection order expires at the

1 close of judicial business on the fifth judicial day following the
2 day of issuance.

3 Sec. 14. Section 42-924.02, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 42-924.02. The clerk of the district court shall make
6 available, in English and Spanish, standard petition and affidavit
7 forms for all types of protection orders provided by law with
8 instructions for completion to be used by a petitioner. The clerk
9 and his or her employees shall not provide assistance in completing
10 the forms but shall display written information of area service
11 agencies who provide legal advocacy and related services. The
12 State Court Administrator shall adopt and promulgate the standard
13 petition and affidavit forms provided for in this section as well
14 as the standard temporary and final protection order forms and
15 provide a copy of such forms to all clerks of the district courts
16 in this state. These standard temporary and final protection order
17 forms shall be the only such forms used in this state.

18 Sec. 15. Section 42-925, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 42-925. (1) Any order issued under subsection (1) of
21 section 42-924 may be issued ex parte to the respondent if it
22 reasonably appears from the specific facts included in the
23 affidavit that the petitioner will be in immediate danger of abuse
24 before the matter can be heard on notice. ~~(1)~~

25 (2) (a) If the specific facts included in the affidavit do
26 not show that the petitioner will be in immediate danger of abuse
27 or ~~(2)~~ (b) if the court does not issue an ex parte order or grants

1 only part of the relief sought, the court or judge may forthwith
2 cause notice of the petition to be given to the respondent stating
3 that he or she may show cause, not more than fourteen days after
4 service upon him or her, why such order should not be entered.

5 (3) The court shall put in writing the specific grounds
6 for denial of an ex parte petition for relief under section 42-924.

7 (4) If such ex parte order is issued to the respondent,
8 the court shall forthwith cause notice of the petition and order to
9 be given the respondent stating that, upon service on the
10 respondent, the order shall remain in effect for a period of one
11 year and may be for a longer period if the court deems reasonable,
12 and, if the order grants temporary custody, that such custody shall
13 not exceed the number of days specified by the court unless the
14 respondent shows cause why the order should not remain in effect.
15 The court shall also cause to be served upon the respondent a form
16 with which to request a show-cause hearing. If the respondent
17 wishes to appear and show cause why the order should not remain in
18 effect, he or she shall affix his or her current address, telephone
19 number, and signature to the form and return it to the clerk of the
20 district court within five days after service upon him or her. The
21 petitioner may also request the court to set a hearing within
22 fourteen days after service upon the respondent, regardless of any
23 ex parte relief granted. Upon receipt of the request for a
24 show-cause hearing, the court shall immediately schedule a
25 show-cause hearing to be held within thirty days after the receipt
26 of the request for a show-cause hearing and shall notify the
27 petitioner and respondent of the hearing date.

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1 Sec. 16. Section 42-926, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 42-926. (1) Upon the issuance of any protection order
4 under section 42-925, the clerk of the court shall forthwith
5 provide the petitioner, without charge, with two certified copies
6 of such order and copies of all paperwork provided to law
7 enforcement. The clerk of the court shall also forthwith provide
8 the local police department or local law enforcement agency and the
9 local sheriff's office, without charge, with one copy each of such
10 order and one copy each of the sheriff's return thereon.

11 (2) The clerk of the court shall also forthwith provide a
12 copy of the protection order to the sheriff's office in the county
13 where the respondent may be personally served together with
14 instructions for service. Upon receipt of the order and
15 instructions for service, such sheriff's office shall forthwith
16 serve the protection order upon the respondent and file its return
17 thereon with the clerk of the court which issued the protection
18 order within fourteen days of the issuance of the protection order.

19 (3) Protection orders under section 42-926 may be
20 modified by the court or upon the request of the petitioner.

21 (4) If any protection order is dismissed or modified by
22 the court, the clerk of the court shall forthwith provide the local
23 police department or local law enforcement agency and the local
24 sheriff's office, without charge, with one copy each of the order
25 of dismissal or modification.

26 Sec. 17. Any peace officer authorized to enforce a
27 protection order or any other order under section 42-924 or 42-925

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1 may also personally serve such order upon the respondent. For
2 purposes of serving a protection order under section 42-924, a
3 peace officer may detain a respondent for a reasonable period of
4 time. Upon receipt of the order and instructions for service, a
5 peace officer shall forthwith serve the protection order upon the
6 respondent and file his or her return thereon with the clerk of the
7 court which issued the protection order within seven days after
8 issuance of the protection order.

9 Sec. 18. Section 42-927, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 42-927. All law enforcement agencies in the state shall
12 annually provide peace officers employed by them with ~~an~~ mandatory
13 education and training program designed to inform the officers of
14 the problems of domestic abuse, procedures to deal with such
15 problems, the Protection from Domestic Abuse Act, and the services
16 and facilities available to abused family and household members.
17 Every peace officer shall receive not less than two hours of such
18 education and training.

19 Sec. 19. Section 42-928, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 42-928. A peace officer shall with or without a warrant
22 arrest a person if:

23 (1) ~~the~~ The peace officer has probable cause to believe
24 that the person has committed a violation of an order issued
25 pursuant to section 42-924 or section 13 of this act, a violation
26 of section 42-925, a violation of an order excluding a person from
27 certain premises issued pursuant to section 42-357, or a violation

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1 of a valid foreign protection order recognized pursuant to section
2 42-931; and

3 (2) a A petitioner under section 42-357, 42-924, or
4 42-925, an applicant for an order excluding a person from certain
5 premises issued pursuant to section 42-357, or a person protected
6 under a valid foreign protection order recognized pursuant to
7 section or 42-931 or section 13 of this act provides the peace
8 officer with a copy of a protection order or ~~an order excluding a~~
9 ~~person from certain premises issued under such sections or the~~
10 peace officer determines that such an order exists after
11 communicating with the local law enforcement agency.

12 Sec. 20. Original sections 42-901, 42-903, 42-907,
13 42-924, 42-924.02, 42-925, 42-926, 42-927, and 42-928, Reissue
14 Revised Statutes of Nebraska, and sections 28-323, 29-110, 29-2264,
15 29-4003, 29-4004, 29-4009, and 29-4013, Revised Statutes
16 Supplement, 2004, are repealed.".